

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:15-cv-00402-FDW-DSC

AMERICAN TIRE DISTRIBUTORS, INC.,)
Plaintiff,)
vs.)
ITG VOMA CORPORATION and)
VOMA TIRE CORPORATION,)
Defendants.)

ORDER

THIS MATTER is before the Court on Defendants' Motion to Dismiss (Doc. No. 15) seeking dismissal pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6), or in the alternative to stay the proceedings and compel arbitration. After reviewing the pleadings and attached exhibits, the Defendants' Motion to Dismiss is **DENIED** under Rule 12(b)(2), **GRANTED IN PART** to stay the proceedings and compel arbitration, and **DENIED WITHOUT PREJUDICE** under Rule 12(b)(6) because of the possibility of it being mooted or modified by arbitration.

This case is **STAYED** pending arbitration to determine if Plaintiff is compelled to arbitrate its claims against one, both, or neither of the Defendants. Accordingly, **ALL** parties are **ORDERED** to proceed to arbitration and to file a report of what matters are arbitrable within ninety (90) days of the date of this Order.

IT IS SO ORDERED.

Signed: December 16, 2015

Frank D. Whitney
Frank D. Whitney
Chief United States District Judge